

FILE COPY

STATE OF WISCONSIN
CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

PATRICK L. HART, D.C.,
RESPONDENT

FINAL DECISION
AND ORDER
LS9509081CHI

The State of Wisconsin, Chiropractic Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Chiropractic Examining Board.

The rights of a party aggrieved by this Decision to petition the board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 9 day of December, 1995.

Wendell Hughes Serna, D.C.

STATE OF WISCONSIN
BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS
AGAINST
PATRICK L. HART, D.C.,
RESPONDENT.

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PROPOSED DECISION
Case No. LS-9509081-CHI
(95 CHI 032)

PARTIES

The parties in this matter under § 227.44, Stats., and § RL 2.037, Wis. Admin. Code, and for purposes of review under § 227.53, Stats., are:

Complainant:

Division of Enforcement
Department of Regulation and Licensing
Madison, WI 53708-8935

Respondent:

Patrick L. Hart, D.C.
1858 Jenifer Street
Madison, WI 53704

Disciplinary Authority

Chiropractic Examining Board
1400 East Washington Ave.
Madison, WI 53703

PROCEDURAL HISTORY

A. The license to practice chiropractic of Patrick L. Hart was summarily suspended by the Chiropractic Examining Board on August 31, 1995. This disciplinary case was initiated by the filing of a complaint with the board on September 6, 1995. A disciplinary proceeding (hearing) was scheduled for September 19, 1995. Notice of Hearing was prepared by the Division of Enforcement of the Department of Regulation and Licensing and served personally on Dr. Hart on September 6, 1995.

B. Dr. Hart filed no answer to the complaint.

C. The disciplinary proceeding was held as scheduled. Dr. Hart appeared in person. The Board was represented by Attorney Steven Gloe of the Department's Division of Enforcement. The hearing was recorded. No transcript has been prepared. The testimony and exhibits entered into evidence at the hearing form the basis for this Proposed Decision.

FINDINGS OF FACT

1. The respondent, Patrick L. Hart, is a chiropractor licensed in the state of Wisconsin, under license number 2035, which he has held continuously since it was originally granted on July 18, 1985.
2. Dr. Hart practiced chiropractic without professional liability insurance coverage from December 7, 1994 through August 30, 1995.
3. On August 31, 1995, Dr. Hart's license to practice chiropractic was summarily suspended based on his failure to have professional liability insurance.
4. On September 18, 1995 Dr. Hart obtained professional liability insurance coverage in the amount of at least \$100,000 for each occurrence and \$300,000 for all occurrences in one year.
5. Upon Dr. Hart's providing proof of adequate insurance coverage, the summary suspension was terminated on September 19, 1995 as authorized by the fourth paragraph of the August 31, 1995 order.

CONCLUSIONS OF LAW

I. The Chiropractic Examining Board is the legal authority responsible for issuing and controlling credentials for chiropractors, under ch. 446, Stats. The Chiropractic Examining Board has jurisdiction over Patrick L. Hart's license and it has jurisdiction over the subject-matter of a complaint alleging unprofessional conduct, under sec. 15.08(5)(c), Stats., sec. 446.03, Stats., and ch. Chir 6, Wis. Admin. Code.

II. The violation in finding of fact 2 above constitutes unprofessional conduct, under sec. 446.02(8), Stats., sec. Chir 6.02(25), Wis. Admin. Code, and sec. 446.03(5), Stats., and discipline is appropriate, under sec. 446.03, Stats.

ORDER

THEREFORE, IT IS ORDERED that the license granted to Patrick L. Hart to practice chiropractic shall be suspended for a period of twenty (20) days, commencing August 31, 1995 and ending September 19, 1995


IT IS FURTHER ORDERED that for a period of two years commencing September 19, 1995 Patrick L. Hart shall submit proof to the Chiropractic Examining Board of professional liability insurance coverage, in the form of receipts for premium payments or similar proof.

OPINION

Dr. Hart does not contest the allegation in the complaint that he failed to have professional liability insurance during the period charged, December 7, 1994 through August 30, 1995. He brought to the hearing proof of coverage at 100/300 limits effective September 18, 1995 [exhibit 2]. A copy of the policy was delivered on September 26th, and the hearing record was held open to receive it [exhibit 3]. Dr. Hart's purchase of professional liability insurance coverage brings him into conformity with the statutory requirement for such coverage. On the date of the hearing or shortly thereafter the summary suspension was terminated and Dr. Hart's license was reinstated.

He was not in conformity with this requirement for some period of time prior to September 18, 1995, however, and this non-compliance constitutes unprofessional conduct, which justifies professional discipline. Mr. Gloe recommended that the period of summary suspension already imposed on Dr. Hart [exhibit 1] from August 31, 1995 through the hearing date would be sufficient to satisfy the purposes of professional discipline, which are the protection of the public and the profession from further misconduct by this practitioner or by others. Mr. Gloe recommended that no order for costs be imposed, but that Dr. Hart be required for a period to continue to provide proof of insurance coverage to the board. I find these recommendations reasonable, and adopt them as my recommendation for discipline to the board in this proposed decision.

Dated and signed: September 26, 1995



John N. Schweitzer
Administrative Law Judge
Department of Regulation and Licensing

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN CHIROPRACTIC EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

November 13, 1995

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)